



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 101341 OF 2021 (MV-I)

BETWEEN:

M. SIDDA LINGANA GOUDA
S/O. M. CHANDRASEKHAR GOUDA
AGE. 37 YEARS, OCC. EX. AMBULANCE DRIVER,
R/O. NO.33, ESHWARA GUDI ONI,
CHELAGURKI, BALLARI DISTRICT -583111.

...APPELLANT

(BY SRI MANJUNATH JADAI, ADVOCATE)

AND:

1. MOHAMMED ALTHAF P. S/O. ABDUL RAWOOF P.,
AGE. 45 YEARS, OCO. DRIVER OF CONTAINER LORRY
BEARING NO.AP-16/U-5247,
R/O.NO.29, WARD NO.15,
MILLERPET, BALLARI-583101.
2. SANTOSH KUMAR SENAPATI
PROP. OF VINAY DURGA ERECTORS
OWNER OF CONTAINER LORRY



BEARING NO.AP-16/U-5247
R/O.NO.244/781, 2ND CROSS,
SATHVANI NAGAR, NEAR CHURCH,
BALLARI-583101.

3. THE BRANCH MANAGER
NATIONAL INSURANCE CO. LTD.,
BRANCH OFFICE, DOOR NO.22/13
MAIN ROAD, PARVATHI NAGAR,
BALLARI-583103.

...RESPONDENTS

(BY SRI S.K. KAYAKAMATH, ADVOCATE FOR R3;
R1 AND R2 NOTICE DISPENSED WITH)

THIS MFA IS FILED U/S.173 (1) OF MOTOR VEHICLES ACT,
1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED
16.07.2020 PASSED IN MVC NO.569/2018 ON THE FILE OF THE I
ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER, MOTOR
ACCIDENT CLAIMS TRIBUNAL-V, BALLARI, AND ENHANCE THE
COMPENSATION BY ALLOWING THE APPEAL TO MEET THE
JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

Injured-claimant is before this Court under Section 173(1) of Motor Vehicles Act, 1988 (for short, 'Act of 1988') not being satisfied with the quantum of compensation awarded under judgment and award dated 16.07.2020 in MVC No.569/2018 on the file of I Additional Senior Civil Judge and Member, MACT-V, Ballari (for short, 'the Tribunal') and praying for enhancement of compensation.

2. The parties would be referred with their ranks, as they were before the Tribunal for convenience and clarity.

3. The claimant has filed the claim petition under Section 166 of Act of 1988 praying for compensation for the accidental injuries suffered by him in an accident that occurred on 30.12.2017 at about 11.30 p.m. involving motor cycle bearing Reg.No.KA-34/J-5531 and lorry bearing Reg.No.AP-16/U/5247 near Modupalli Ramakrishna Fields, NH-42, Ananthapur-Ballari Road, near P.Kottalpalli village,



Vidapanakal Mandalam, Ananthapur District. It is stated that the claimant has sustained the following injuries:

1. Multiple abrasions over face
2. Cut lacerated wound over left arm 4x2 cm
3. Fracture of right arm (humerus)
4. Loss of teeth over upper jaw
5. Nose bleeding
6. Brain parenchyma open in forehead
7. Right arm-fracture middle 1/3rd of shaft of right humerus
8. Deep cut lacerated wound over forehead 6x3 cm
9. Cut lacerated wound over left arm 2x1 cm
10. Multiple abrasion over right hand
11. Multiple abrasion over the chest region
12. Right humerus fracture (shaft region)
13. Extensive frontal, orbital and frontal sinus fracture
14. ORIF Panfacial fractures on 03.01.2018 under GA
15. Fracture symphysis with displacement, fractured Maxilla report II type, depressed frontal-Naso orbito ethmoid fracture, mid palatal split with soft tissue wounds involving palate, right infraorbital region and forehead
16. Underwent ORIF Right Humer with DCP on 09.01.2018 under GA
17. Fracture of shaft humer M/3, Brachialis muscle tear

4. It is further contended that the claimant was working as ambulance driver and was hale and healthy at the time of accident. The claimant was getting ₹.15,000/-



salary with DA of ₹.6,000/- per month. Due to the grievous injuries sustained by him, he is unable to do any nature of work as he has lost vision in both eyes. Hence, prayed for compensation under different heads.

5. On receipt of notice, respondent No.3-Insurer denied the petition averments in toto and contended that there was no valid and effective driving license to drive the vehicle as on the date of accident and petition is bad for non-joinder of necessary parties i.e., owner and insurer of the motor cycle are not included. Hence, prayed for dismissal of petition with costs.

6. On behalf of claimant, claimant was examined as P.W.1, examined two doctors as P.W.2 and P.W.3 apart from marking Exs.P.1 to P.27 and closed his side before the Tribunal. On behalf of respondents, two witnesses are examined as R.W.1 and R.W.2 apart from marking Exs.R.1 to R.4 and closed their side.



7. After recording evidence of both sides and hearing arguments of both sides, the Tribunal awarded compensation of ₹.29,48,383/- with interest at 9% per annum from the date of petition till realization under the following heads:

1.	Loss of income during laid up period	₹.19,35,360/-
2	Medical expenses	₹.9,38,023/-
3	Pain and suffering including	₹.50,000/-
4	Nutrition food etc	₹.25,000/-
	Total	₹.29,48,383/-

8. Not satisfied with the aforesaid compensation, claimant/appellant has preferred the present appeal.

9. Heard arguments of both sides.

10. Learned counsel for the appellant, Sri Manjunath Jadai would submit that there was 100% functional disability to the claimant because he was working as ambulance driver and he lost vision of both eyes and even though doctor assessed it as 80%, there is complete functional disability to the claimant. He has to depend on



others till his lifetime and thus, he requires attendant charges during treatment period and also in future. Furthermore, the compensation awarded by Tribunal on all heads is on lower side. The Tribunal has not assessed the income of claimant at ₹.15,000/- + ₹.6,000/- (bata charges) per month even though salary certificate is produced and has taken the income of claimant at ₹.9,000/- per month which is on lower side. Hence, prayed for allowing the appeal.

11. Learned counsel for respondent No.3-Insurer would submit that the Tribunal has assessed the income and disability in proper manner and the compensation awarded by the Tribunal is just and proper. Hence, prayed for dismissal of the appeal.

12. Having heard the arguments of both sides and upon verifying the appeal papers and also the original records of the Tribunal, the only point that would arise for consideration is:



"Whether The claimant is entitled for enhanced compensation?"

13. Our finding on the above point is in **affirmative** for the following reasons.

14. The date, place, time of accident, the manner in which accident had taken place and the injuries sustained by the claimant in the accident are not in dispute. The claimant has sustained the following injuries as per Ex.P.5-Discharge Summary:

1. Deep cut lacerated wound over forehead 6x3 cm
2. Cut lacerated wound over left arm 2x1 cm
3. Multiple abrasion over right hand
4. Multiple abrasion over the chest region
5. Right humerus fracture (shaft region)
6. Extensive frontal, orbital and frontal sinus fracture
7. ORIF Panfacial fractures on 03.01.2018 under GA
8. Fracture symphysis with displacement, fractured Maxilla report II type, depressed frontal-Naso orbito ethmoid fracture, mid palatal split with soft tissue wounds involving palate, right infraorbital region and forehead
9. Underwent ORIF Right Humer with DCP on 09.01.2018 under GA
10. Fracture of shaft humer M/3, Brachialis muscle tear



15. On perusal of those injuries, we are of the considered opinion that granting ₹.50,000/- towards pain and suffering is very less and it ought to be **₹.1,00,000/-**. Likewise, granting ₹.25,000/- towards nutrition, food etc. by the Tribunal is less and it should be at least **₹.50,000/-**. The Tribunal has not awarded any compensation under the head loss of amenities. By considering the loss of vision of both eyes and other fracture injuries to the claimant, we are of the considered opinion that granting compensation at **₹.50,000/-** under the head loss of amenities is required.

16. As far as medical expenses are concerned, granting of compensation by examining the medical documents by the Tribunal is sufficient. Hence, **₹.9,38,023/-** awarded by the Tribunal is just and proper.

17. The Tribunal has taken income of the claimant at ₹.9,000/- per month. But, even as per the chart prepared by Karnataka State Legal Services Authority, the notional income is ₹.10,250/- as the accident had taken place in the



year 2018. The driving licence and salary certificate of the claimant shows that salary of claimant is ₹.15,000/- per month as ambulance driver along with Bhatta at ₹.200/- per day, which is equivalent to ₹.21,000/-.

18. Thus, as the claimant was working as driver, having valid and effective driving licence, we are of the considered opinion that his income should be taken at ₹.15,000/- per month and not ₹.9,000/- per month as determined by the Tribunal. As the claimant was working as driver and he lost his vision capacity and doctor has assessed disability at 80% to both eyes, there is 100% functional disability to the claimant. The age of the claimant was 31 years as on the date of accident. Hence, the relevant multiplier to be applicable is 16.

19. Since the claimant was self-employed, he is entitled for 40% future prospects as per ***National Insurance Company Limited vs. Pranay Sethi and Others***'s case reported in ***(2017) 16 SCC 680***. Thus, the



income of the claimant would be ₹.21,000/- (₹.15,000 + 40%). Hence, the claimant is entitled for **₹.40,32,000/-** (₹.21,000 x 12 x 16 x 100%) under the head loss of earnings due to disability.

20. As far as loss of income during laid up period is concerned, the claimant has taken continuous treatment and has undergone several surgeries and was admitted to hospital several times. As per Exs.P.5 to P.11, the discharge summaries, the claimant was in hospital for 38 days. Thus, considering the said aspect, the claimant might have been laid up for a period of 6 months. Hence, he is entitled for compensation at **₹.90,000/-** (₹.15,000 x 6) under the head-loss of income during laid up period.

21. As the claimant has lost vision of one eye completely and there is only a very little vision to another eye, we are of the opinion that awarding compensation at **₹.1,00,000/-** towards attendant charges is just and proper



since the claimant requires attendant charges in his entire life.

22. Thus, the claimant is entitled for the following total compensation:

Sl.No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Pain and suffering	₹.50,000/-	₹.1,00,000/-
2	Nutrition food	₹.25,000/-	₹.50,000/-
3	Loss of amenities	-	₹.50,000/-
4	Medical expenses	₹.9,38,023/-	₹.9,38,023/-
5	Loss of earnings due to disability	-	₹.40,32,000/-
6	Loss of income during laid up period	₹.19,35,360/-	₹.90,000/-
7	Attendant charges	-	₹.1,00,000/-
	Total	₹.29,48,383/-	₹.53,60,023/-

23. Hence, we pass the following:



ORDER

- 1) The appeal is allowed in part.
- 2) The impugned judgment and award dated 16.07.2020 in MVC No.569/2018 on the file of I Additional Senior Civil Judge and Member, MACT-V, Ballari is modified.
- 3) The claimant is entitled for total compensation of **₹.53,60,023/-** as against Rs.29,48,383/- awarded by the Tribunal.
- 4) The compensation amount shall carry interest at 9% per annum from the date of claim petition till its realization.
- 5) The respondent-Insurer shall deposit the entire compensation amount with accrued interest before the Tribunal within a period of 8 weeks from the date of receipt of certified copy of this judgment.



- 6) Deposit and disbursement shall be made as per the
Award of the Tribunal.
- 7) No order as to costs.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

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LIST NO.: 1 SL NO.: 37